

FLAMMABILITY LAW

CALIFORNIA BUSINESS AND PROFESSIONS CODE, DIVISION 8, CHAPTER 3.

Article 1. General Provisions

19006. "Upholstered furniture" means any furniture, including children's furniture, movable or stationary, which is made or sold with cushions or pillows, loose or attached, or is itself stuffed or filled in whole or in part with any material, is or can be stuffed or filled in whole or in part with any substance or material, hidden or concealed by fabric or any other covering, including cushions or pillows belonging to or forming a part thereof, together with the structural units, the filling material and its container and its covering which can be used as a support for the body of a human being, or his limbs and feet when sitting or resting in an upright or reclining position.

Article 7. Regulations

19161. All mattresses manufactured for sale in this state, including any mattress manufactured for sale for use in a hotel, motel, or other place of public accommodation in this state, shall be fire retardant. All upholstered furniture sold or offered for sale by a manufacturer or wholesaler for use in this state, including any upholstered furniture sold to or offered for sale for use in a hotel, motel, or other place of public accommodation in this state, and reupholstered furniture to which filling materials are added, shall be fire retardant and shall be labeled in a manner specified by the Bureau. "Fire retardant," as used in this section, means a product that meets the regulations adopted by the Bureau.

19161.3. All flexible polyurethane foam in the form of slabs, blocks, or sheets, or which is shredded (loose or packaged), except polyurethane foam sold for use as carpet underlayment and polyurethane foam which cannot reasonably be expected to be used in or as an article of furniture or a mattress that is offered for sale to the general public at retail outlets in this state for non-commercial or non-manufacturing purposes, shall be fire retardant. "Fire retardant," as used in this section, means a product that meets the regulations adopted by the Bureau.

19161.5. The Chief of the Bureau, subject to the approval of the Director of Consumer Affairs, may in his or her discretion, exempt items of upholstered furniture which are deemed not to pose a serious fire hazard from the fire retardant requirements of Section 19161.

FLAMMABILITY REGULATIONS

TITLE 4, CHAPTER 3

1370. Flame Resistant, Flame Retardant.

(a) Filling materials labeled as "flame resistant," "flame retardant" and words of similar import shall be tested in accordance with, and shall meet the requirements of, the State of California, Bureau of Home Furnishings Technical Bulletin No. 117, entitled "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture," dated January 1980.

(b) Fabrics labeled as "flame resistant," "flame retardant," and words of similar import shall be tested in accordance

with, and shall meet the requirements of, the State of California, Bureau of Home Furnishings Technical Bulletin No. 105, entitled, "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Fabrics," dated January 1980.

1371. Mattresses.

Mattresses shall meet the requirements set forth in the United States Government Standard for Flammability of Mattresses FF-4-72.

1372. Mattress Labeling and Requirements.

1373. Voluntary Notice.

Each mattress may have a label attached to the top thereof stating: "Notice: This mattress is designed to resist combustion which may result from a smoldering cigarette."

1373.1. Non-Flame Retardant Polyurethane Foam.

(a) Mattresses which contain polyurethane foam not complying with the flammability requirements of the Bureau's Technical Bulletin No. 117 shall have a label attached stating the following:

NOTICE

THIS PRODUCT CONTAINS NON-FLAME RETARDANT
POLYURETHANE FOAM. AVOID CONTACT WITH OPEN
FLAME.

(b) The label shall be attached to the surface area of the article and shall be in plain view. The minimum size of the label shall be 2x3 inches and the minimum size of the type shall be 1/8 inch in height. All type shall be in capital letters.

1373.2. Flammability, Flexible Polyurethane Foam.

All flexible polyurethane foam in the form of slabs, blocks or sheets, or which is shredded (loose or packaged), except polyurethane foam which cannot reasonably be expected to be used in or as an article of furniture or in or as a mattress, that is offered for sale to the general public at retail outlets in this state for non-commercial or non-manufacturing purposes shall meet the test requirements set forth in Section A, Part I; Section A, Part II; and Section D, Part II of the State of California, Bureau of Home Furnishings Technical Bulletin No. 117, entitled "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture," dated January 1980.

1374. Flammability. Upholstered and Reupholstered Furniture.

(a) All filling materials contained in any article of upholstered furniture, and all filling materials added to reupholstered furniture, shall meet the test requirements as set forth in the State of California, Bureau of Home Furnishings Technical Bulletin No. 117, entitled "Requirements, Test Procedures and Apparatus for Testing the Flame Retardance of Filling Materials Used in Upholstered Furniture," dated January 1980.

(b) In addition to the requirements of subsection (a) above, finished articles of upholstered furniture may also be tested in accordance with the State of California, Bureau of Home Furnishings Technical Bulletin Number 116 entitled "Test Procedures and Apparatus for Testing the

Flame Retardance of Upholstered Furniture," dated January 1980.

(c) On and after March 1, 1992, all upholstered seating furniture sold for use in public occupancies, as defined in subsection (d) below, shall meet the test requirements set forth in the State of California, Bureau of Home Furnishings and Thermal Insulation Technical Bulletin Number 133, entitled "Flammability Test Procedure For Seating Furniture For Use in Public Occupancies," dated January 1991.

(d) For purposes of this section, the term "public occupancies" shall mean:

(1) Jails, prisons, and penal institutions, as defined in Chapter 10 of the California State Building Standards Code.

(2) Hospitals, mental health facilities, and similar health care facilities, as defined in Chapter 10 of the California State Building Standards Code.

(3) Nursing homes, board and care facilities, and convalescent homes, as defined in Chapter 10 of the California State Building Standards Code.

(4) Child day care centers, as defined in Chapter 8 of the California State Building Standards Code.

(5) Public auditoriums and stadiums, as defined in Chapter 6 of the California State Building Standards Code.

(6) Public assembly areas, as defined in Chapter 6 of the California State Building Standards Code, containing ten (10) or more articles of seating furniture and located in hotels, motels and lodging houses.

(e) Public occupancies and public assembly areas, as defined in Section 1374(d), which are fully sprinklered in accordance with either National Fire Protection Association (NFPA) Standard NFPA 13-1987 or Uniform Building Code Standard No. 38-1, dated 1988, shall comply with the requirements of Section 1374(a) and may comply with the requirements of Section 1374(c).

(f) The flammability requirements contained in this section are considered to be flammability performance standards. Testing under these standards shall be at the discretion of the licensee; however, products and materials offered for sale in this state shall meet all applicable flammability requirements established in these regulations.

1374.1. Exemptions.

(a) Articles exempted from the provisions of Section 1374 of these regulations shall have a label attached to the surface area of the article, in plain view, stating the following:

NOTICE

THIS ARTICLE DOES NOT MEET CALIFORNIA BUREAU OF HOME FURNISHINGS FLAMMABILITY REQUIREMENTS - TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(b) The minimum size of the label shall be 2 x 3 inches and the minimum size of the type shall be one-eighth inch in height. All type shall be in capital letters.

1374.2. Criteria for Exemption.

Articles of upholstered furniture, other than juvenile furniture and furniture used for and in facilities designed for the care or treatment of humans, which meet any of the following criteria shall be exempt from compliance with the provisions of Section 19161 of the Home Furnishings Act:

(a) Cushions and pads intended solely for outdoor use.

(b) Any article which is smooth surfaced and contains no more than one-half (1/2) inch of filling material, provided that such article does not have a horizontal surface meeting a vertical surface.

(c) Articles manufactured solely for recreational use or physical fitness purposes, such as weightlifting benches, gymnasium mats or pads, sidehorses, and similar articles.

1374.3. Labeling

(a) Upholstered furniture conforming to the requirements of Section 1374(a) and 1374(b) of these regulations shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE MEETS ALL FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETINS 116 AND 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(b) Upholstered articles conforming to Section 1374(a) but which may not conform to Section 1374(b) shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(c) Articles of furniture conforming to the requirements of Section 1374(c) shall have a label permanently attached to the article, in plain view, stating the following:

NOTICE

THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 133. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

(d) Minimum size of the label for subsections (a), (b) and (c) shall be 2 x 3 inches and the minimum size of the type shall be one-eighth inch in height. All type shall be in capital letters.

(e) All flammability labels described in Sections 1373.1, 1374.1, and 1374.3 shall also comply with the labeling requirements of Sections 1126(a) and (b).

1126. Official Law Label Requirements.

(d) Statements and Headings to be Shown on Law Labels:

(11) All bulk filling materials which meet the requirements of Bureau of Home Furnishings Technical Bulletin No. 117, dated January 1980, shall have imprinted on the law label immediately following the requirements as set forth in subsection (c) of this section the statement: "THIS

PRODUCT MEETS THE REQUIREMENTS OF BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN NO. 117.”

(12) In addition to the requirements set forth in subsection (11) of this section all invoices for products meeting the requirements of Bureau of Home Furnishings Technical Bulletin No. 117 shall have stated on such invoices the identification of the product meeting the requirement and the statement that such identified products meet the requirements of Bureau of Home Furnishings Technical Bulletin No. 117.

TITLE 15 CALIFORNIA CODE OF REGULATIONS

1272. Penal Institutions - Mattresses.

“Mattresses issued to inmates in all facilities shall be of the type constructed with an easily cleaned, non-absorbent ticking. Mattresses purchased for issue to inmates in facilities which are locked to prevent unimpeded access to the outdoors shall be certified by the manufacturer as meeting all requirements of the State Fire Marshal and the Bureau of Home Furnishings Test Standard for Penal Mattresses.”

UPHOLSTERED FURNITURE FLAMMABILITY LAW RESPONSIBILITY

SUPPLY DEALER'S RESPONSIBILITY - Bulk Filling
Materials and Fabrics

The supply dealer must stamp on invoices for the products sold in the State of California, on and after March 1, 1977, that the product meets the requirements of Bureau of Home Furnishings Technical Bulletin No. 117. Similar requirements are mandatory for the supply dealer's label.

MANUFACTURER'S RESPONSIBILITY - Completed Article

It is the responsibility of the manufacturer to ensure that the materials used are in accordance with law and that the proper labels be attached to completed articles of upholstered furniture. Each article of furniture offered for sale in California must have attached two labels - a law label and a flammability label.

It is the wholesaler's responsibility to ensure that all upholstered products have the required labels attached - this means a law label and a flammability label.

RETAILER'S RESPONSIBILITY - Finished Article

It is the retailer's responsibility to ensure that every upholstered article offered for sale by the retailer has the required labels attached - this means a law label and a flammability label.

California Bureau of Home Furnishings Flammability Labeling

- (a) This label to be attached to every article of furniture complying ONLY with mandatory flammability requirements of **Technical Bulletin 117**.

NOTICE

THIS ARTICLE MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

- (c) This label to be attached to every article of furniture **exempted** by law from flammability requirements.

NOTICE

THIS ARTICLE DOES NOT MEET CALIFORNIA BUREAU OF HOME FURNISHINGS FLAMMABILITY REQUIREMENTS TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

- (b) This label to be attached to every article of furniture complying with both **Technical Bulletin 116** and **Technical Bulletin 117**.

NOTICE

THIS ARTICLE MEETS ALL FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETINS 116 AND 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

- (d) This label to be attached to every article of furniture complying with **Technical Bulletin 133**.

NOTICE

THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 133. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

FLAMMABILITY QUESTIONS AND ANSWERS

UPHOLSTERED FURNITURE

1. What products are affected by California's upholstered furniture flammability requirements?

The law requires all upholstered furniture offered for sale in California, regardless of the point of manufacture, to comply with the flammability requirements. Certain products have been exempted from the flammability requirements, and those products are listed in the Bureau's regulations relating to flammability.

2. Who must comply?

The law requires all furniture offered for sale in California to be fire retardant; regardless of the point of manufacture. Furniture which is imported into California from another state or country must comply with the Bureau's flammability requirements. In addition, furniture manufacturers offering products for sale within the state must be licensed with the Bureau as a furniture manufacturer and go through the flammability qualification procedures.

3. What is the difference between Technical Bulletin 116 and Technical Bulletin 117?

All furniture offered for sale in California must comply with California Technical Bulletin 117, unless specifically exempted by law. Technical Bulletin 117 requires the filling or stuffing materials used in furniture to be both flame retardant and smolder resistant. In addition, cover fabrics must meet the screening test for flammability contained in Technical Bulletin 117. Technical Bulletin 117 is a mandatory law.

Technical Bulletin 116 states that, as well as complying with the requirements of Technical Bulletin 117, manufacturers may state that their product is totally cigarette resistant. At this time, Technical Bulletin 116 is not mandatory, but is voluntary.

4. What is the difference between Technical Bulletin 117 and Technical Bulletin 133?

Technical Bulletin 117 is a minimum standard for all furniture offered for sale in California. Technical Bulletin 133 is an improved fire standard that is mandatory for upholstered seating furniture in certain public occupancies. Technical Bulletin 117 is a component fire test. Technical Bulletin 133 is a full-scale fire test. A completed article of furniture is ignited and measurements of temperature, smoke, carbon monoxide, heat generation and weight loss are taken and compared with developed criteria to determine acceptable fire performance. A package of information is available from the Bureau that provides more detailed information specific to Technical Bulletin 133.

5. What labels should be attached to my furniture offered for sale in California?

Every article of furniture offered for sale in California must have two labels. The Bureau calls the first label the law label. This is the label that generically

describes the concealed filling materials in the furniture (showing percentages by weight of each different filling material) and shows the registry number of the manufacturer. This number has been assigned by the Bureau or by another state and is listed with the Bureau. This is a unique number identifying the manufacturer of the product.

In addition to the law label, every piece of furniture offered for sale in California must have one of four types of flammability labels. If a manufacturer complies only with the mandatory part of California's Technical Bulletin 117 requirements, the manufacturer can use the label which states:

NOTICE

THIS ARTICLE MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

When manufacturers comply with both Technical Bulletins 116 and 117, they are permitted to use the label which states:

NOTICE

THIS ARTICLE MEETS ALL FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETINS 116 AND 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

When manufacturers of upholstered seating furniture comply with Technical Bulletin 133, they are required to use a label which states:

NOTICE

THIS ARTICLE IS MANUFACTURED FOR USE IN PUBLIC OCCUPANCIES AND MEETS THE FLAMMABILITY REQUIREMENTS OF CALIFORNIA BUREAU OF HOME FURNISHINGS TECHNICAL BULLETIN 133. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

For manufacturers whose products have been specifically exempted from the flammability requirements by the Bureau, the following label must be used:

NOTICE

THIS ARTICLE DOES NOT MEET CALIFORNIA BUREAU OF HOME FURNISHINGS FLAMMABILITY REQUIREMENTS - TECHNICAL BULLETIN 117. CARE SHOULD BE EXERCISED NEAR OPEN FLAME OR WITH BURNING CIGARETTES.

Please notice that an exempt product must be labeled. The law states that the Bureau may exempt a product from the flammability requirements provided that it is labeled in a manner approved by the Bureau.

6. Is a flammability label required on an exempt product?

As stated above, the law indicates that products which are exempt from the flammability requirements must be labeled in a manner approved by the Bureau. Therefore,

even though a product is not in compliance with California's requirements, if it is an article of furniture, it must have an exemption label attached to it.

7. How does one obtain an exemption?

Existing Bureau regulations specify that certain products by class are exempt from the flammability requirements. These include:

- (a) Furniture manufactured solely for outdoor use;
- (b) furniture manufactured solely for exercise purposes, such as weightlifting benches, vaulting horses, etc.;
- (c) furniture containing less than 1/2 inch of stuffing material where the horizontal and vertical surfaces do not meet.

In addition, the Bureau has determined that cushions which are manufactured solely for decorative purposes are not items of upholstered furniture and are, therefore, exempt from flammability requirements. Floor cushions which are intended to be sat upon are not considered to be decorative cushions and must comply with the flammability requirements.

Manufacturers whose products are not included in the above may apply to the Bureau for an exemption from the flammability requirements. It is the manufacturer's responsibility to show cause why an exemption from the flammability requirements should be granted. This would include proof, for example, that there is not a known hazard associated with the product or that it is not possible technically to comply with the flammability requirements for some specific reason.

Any product which is granted an exemption must have attached a negative label as indicated above. There is no provision under the law for not attaching a flammability label of some kind to each product offered for sale in this state.

8. How does a manufacturer comply with California's laws?

A manufacturer newly doing business in California must first complete a license application which is available from the Bureau. This license application is submitted to the Bureau along with the required license fee. The Bureau then issues a registry number and license to the manufacturer. The manufacturer then is requested to submit test results indicating the components comply with Technical Bulletin 117.

Please note that under California law, it is the furniture manufacturer's responsibility to make sure that products offered for sale in California do comply with the flammability requirements.

9. What is a retailer's responsibility under the law?

A retailer doing business in California is responsible to ensure that it sells furniture manufactured by licensed manufacturers. In addition, it is the retailer's responsibility to ensure that each piece of furniture offered for sale is correctly labeled. That means that the furniture has attached a law label and a flammability

label. It is illegal to offer any furniture for sale in California which is not so labeled.

10. What about reupholstered furniture?

California law requires all newly manufactured furniture to be fire retardant. In addition, the law states that when filling materials are added to reupholstered furniture during the re-upholstery process, the filling materials must be upgraded to fire retardant types.

11. For what applications is fire retardant polyurethane foam required in California?

Fire retardant polyurethane foam is required in all newly-manufactured furniture offered for sale in California, unless specifically exempted. In addition, polyurethane foam added to reupholstered furniture must now be fire retardant.

Also, flexible polyurethane foam offered for sale at the retail level to the general public for a non-commercial or non-manufacturing purpose must now be fire retardant. It is illegal to offer polyurethane foam for sale at retail in California unless it is fire retardant polyurethane foam meeting the requirements of Technical Bulletin 117.

12. What kind of buildings is Technical Bulletin 133 (TB 133) intended for?

Technical Bulletin 133 is a standard for public buildings or public assembly areas. In California, Technical Bulletin 133 will apply to prisons and jails, hospitals, health care facilities, board and care homes, convalescent homes, licensed child day care centers, stadiums and auditoriums, and public assembly areas of hotels and motels. Technical Bulletin 133 is voluntary or discretionary in any facility which is fully sprinklered in accordance with NFPA 13-1987 or UBC Standard No. 38-1, 1988. However, Technical Bulletin 117, the minimum standard, is still mandatory in sprinklered facilities. A package of information is available from the Bureau that provides more detailed information specific to Technical Bulletin 133.

13. How can I obtain a copy of the flammability requirements?

A complete set of the Bureau's rules, regulations and laws relating to upholstered furniture flammability is available from the Bureau. Please ask for the Flammability Information Package. This package includes the law, the rules and regulations, specific responsibilities of various parties under the law, and a set of the test procedures contained in Technical Bulletins 116 and 117. A separate package of information is available from the Bureau that provides more detailed information specific to Technical Bulletin 133. Please ask for the Technical Bulletin 133 package. This package includes the law, the rules and regulations, Technical Bulletin 133 and a question and answer booklet on Technical Bulletin 133.

14. What type of documentation should manufacturers request from their suppliers of materials?

California law requires suppliers of materials to furniture manufacturers to stamp on invoices a statement indicating those materials which are in compliance with California Technical Bulletin 117. Furniture manufacturers should insist that their suppliers comply with this requirement. The law states that it is the furniture manufacturer's responsibility to ensure that all of the materials which they use are in compliance with California Technical Bulletin 117. The only assurance of compliance is a statement from the supplier indicating that materials are in compliance with Technical Bulletin 117.

15. What are the penalties for failure to comply with the flammability requirements?

Under the law, the Bureau is authorized to take products as necessary for testing for compliance with the flammability requirements. If products are found not to be in compliance with the law, the Bureau is authorized to withhold products from sale, to seize products, to destroy products, or to order them shipped out of California. In addition, manufacturers, suppliers, and/or retailers may be subject to penalties of up to \$2,500 per article of furniture per violation of law.